

Date: May 22, 2012

To: Thomas J. Bonfield, City Manager
Through: Keith Chadwell, Deputy City Manager
From: Reginald J. Johnson, Interim Director
Department of Community Development
Subject: Construction/Permanent Financing Loan Documents with McCormack
Baron Salazar, Inc. for the Phase 1 Multi-Family Construction in
Southside East

Executive Summary

On May 2nd, 2011, City Council voted to authorize the City Manager to issue a commitment letter to MBS to provide up to \$5,486,648.00 in loan funds for the first phase of mixed-income rental development on the former Rolling Hills site to be included as part of a Low Income Housing Tax Credit application to the North Carolina Housing Finance Agency. Phase 1 of the 20 acre site will consist of 119 multi-family rental units and 13 live/work units to be constructed on approximately 7 acres. On June 30, 2011, MBS was awarded \$1.3 million in tax credits annually for a period of 10 years which equates to approximately \$11,500,000.00 in equity or about half of the project cost. The higher equity pricing has the effect of reducing the total loan amount from the City with the final maximum loan amounts to be determined as construction pricing is finalized.

Recommendation

The Department of Community Development recommends that City Council authorize the expenditure of up to \$5,250,000.00, comprised of: up to \$2,266,261.00 of Housing Bond Program Income funds, \$2,033,739.00 in HOME funds, and \$950,000.00 in NSP-3 funds and authorize the City Manager to execute a construction to permanent Housing Bond Program Income loan agreement, NSP-3 construction to permanent loan agreement, a HOME construction to permanent loan agreement, to modify the loan agreements as long as the changes do not change the structure of the deal, increase the dollar amount or lessen the obligations of MBS to the City and to execute such other non-loan related documents as necessary and as required by other lenders and the investor (including but not limited to an intercreditor agreement and a disbursing agreement) so long as they do not change the structure of the deal, increase the dollar amount or lessen the obligations of MBS to the City.

Background

Since the approval of the tax credit application, staff has continued its efforts to move the redevelopment of the former Rolling Hills site forward. At the September 8, 2011 work session, City Council approved a Community Development Grant Agreement (CDBG) in the amount of \$550,000.00 with MBS to pay for predevelopment activities for the 20 acre site to include a phase I

environmental assessment, geotechnical exploration and testing. The grant also provided funding for site design to include civil and landscape and the preparation of bid documents for demolition of the existing streets and infrastructure, soil and erosion control, mass grading of the entire site, environmental remediation along with site preparation and the design of new infrastructure improvements for the Phase 1 site. The majority of tasks under the CDBG Agreement have been completed with bids being received for the demolition of the existing streets and infrastructure, mass grading of the site, environmental remediation and the installation of new infrastructure improvements for the Phase 1 development. Additionally, at the September meeting, City Council approved a predevelopment loan in the amount of \$998,300.00 for private predevelopment activities to include architectural, civil, mechanical, plumbing and electrical design of the 132 unit multi-family complex, the payment of water and sewer impact fees, legal fees and the payment of the NCFHA allocation fee. In addition, MBS provided \$510,000 of its own funds to pay for some of the above costs.

Responses to an RFP issued by MBS, including preliminary pricing for Phase 1, were received from four General Contractors on May 11, 2012. As a result of the responses, two firms (Weaver Cooke Construction, Inc. and HJ Russell Company, Inc.) were selected to present to an interview team on May 17, 2012 that consisted of two City representatives and three representatives from MBS. As a result of the interview process, the team recommended that MBS enter into exclusive negotiations with HJ Russell Company, Inc. with the goal of identifying value engineering changes that establishes a Guaranteed Maximum Price (GMP) of \$15,500,000.00 or less, as long as the changes do not adversely affect the project. The GMP reflects the amount included in the tax credit application submitted to NCHFA.

Issues/Analysis

On June 30, 2011, MBS was awarded \$1.3 million in tax credits annually for a period of 10 years which equates to approximately \$11,500,000.00 in equity or better than half of the project cost. The award of tax credits establishes a completion or "in-service" date of December 31, 2013. The 119 multi-family rental and 13 live/work units must be issued a certificate of occupancy from the City/County Building Inspections department by the in-service date. To ensure that the deadline is met and that activities continue, the loan documents need to be executed between the City and MBS so construction can begin on the units.

Alternatives

The City Council could elect to not approve the loan documents with MBS. Without an agreement on the mutual commitments between the City and MBS, the project would not move forward and the tax credits would be forfeited as tax credits are awarded to a developer on a competitive point basis, with additional points awarded for City participation. It should also be noted that if the City chose not to move forward with this project with MBS, it would result in the forfeiture of \$950,000.00 in NSP-3 funding that was awarded to the City as a result of an application specific to the redevelopment of the Phase 1 site.

Financial Impact

The financial impacts associated with the mutual commitments between the City and MBS were reviewed at special City Council meetings on the Southside Revitalization project held on March 10th and April 7th of 2011. On May 2, 2011 City Council voted to authorize the City Manager to issue a commitment letter to MBS to provide up to \$5,486,648.00 in loan funds for the first phase of mixed-income rental development. The total cost of the 132 unit multi-family development is estimated at \$20,760,000 and will be funded as follows:

Source	Permanent	Per Unit
1st Mortgage: US Bank	\$2,500,000	\$18,939
2nd, 3rd & 4th Mortgage: City of Durham	\$4,450,000	\$33,712
5th Mortgage: City of Durham	\$800,000	\$6,061
6th Mortgage: NCHFA	\$1,509,479	\$11,435
Tax Credit Equity: US Bank	\$11,500,000	\$87,121
TOTAL	\$20,759,479	\$157,269

The City will provide four loans to MBS totaling an amount up to \$5,250,000.00. There will be two Housing Bond Program Income loans; one in an amount up to \$1,466,261.00 to be repaid from 60% of net cash flow annually at an interest rate of 2% over a 45 year term; the other in an amount of up to \$800,000.00 at 0% interest deferred for 30 years and beginning in the 31st year to be repaid from 60% of cash flow over a 45 year term. In addition, a HOME loan up to \$2,033,739.00 at 2% interest to be repaid from 60% of cash flow of and an NSP-3 loan in the amount of \$950,000.00 at 2% to be repaid from 60% of cash flow over a 45 year term.

Source	FY12	FY13	FY14	Total
Housing Bond PI	\$988,300	\$1,277,961		\$2,266,261
HOME	\$600,000	\$1,202,744	\$230,995	\$2,033,739
NSP-3		\$950,000		\$950,000
Total/City	\$1,588,300	\$3,430,705	\$230,995	\$5,250,000

On May 1, 2012, MBS received six responses to a Request for Proposal (RFP) requesting firms to provide equity pricing and construction and permanent first mortgage financing for the redevelopment of Phase 1 of the Southside East site. U.S. Bancorp Community Development Corporation provided the highest price per credit at \$0.985 which yields \$12,164,750.00 in gross equity. After subtracting out related fees and construction period interest, the project nets approximately \$11,500,000.00 in equity for Phase 1 project financing. This is \$460,000.00 higher than the next most competitive proposer. The original tax credit application was based on \$0.80 per credit for an equity yield of \$9,880,000. The net equity of \$11,500,000.00 is \$1,620,000.00 more than the tax credit application. The projected permanent first mortgage financing was reduced about \$400,000.00 from what was proposed in the tax credit application as a result of preliminary underwriting with all potential lenders. MBS expects to minimize the reduction as it goes through further underwriting with US Bank. Additionally, the City loan amount will be reduced to \$5,250,000.00 and with the potential to be further reduced based on the construction negotiations.

MBS also received an award of State Tax Credit loan funding in the amount of \$1,509,479.00 for the project.

SDBE Summary

The Department of Equal Opportunity/Equity Assurance has met with representatives of MBS and has approved a SDBE Strategic Plan that will govern the participation of City-certified firms in all aspects of the scopes of work in this project.